



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FWP - 174819

PRELIMINARY RECITALS

Pursuant to a petition filed on June 7, 2016, under Wis. Admin. Code § HA 3.03(4) (*This subprogram no longer exists.), to review a decision by the Milwaukee Enrollment Services regarding FoodShare benefits (FS). The hearing was held on July 7, 2016, by telephone.

The issue for determination is whether this appeal is timely.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner filed this appeal with the Division of Hearings and Appeals on June 7, 2016. The appeal notes that Petitioner's FoodShare benefits were discontinued in June of 2015.

3. Petitioner was sent a Notice of Decision, dated July 17, 2015, that informed him that his FoodShare was to be discontinued effective August 1, 2015 for failing to comply with FoodShare Able-Bodied Adult without Dependent (ABAWD) work requirements. That Notice of Decision notes an appeal deadline of November 2, 2015.
4. The notice was sent to Petitioner at his address of record at the time – the agency address.

DISCUSSION

The Division of Hearings and Appeals can only make a decision on the merits of a matter if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action concerning FS must be filed within 90 days of the date of that action. 7 CFR, §273.15(g). A negative action can be the denial of an application or the reduction or termination of an ongoing case.

This appeal was filed about 10 months after Petitioner's FoodShare benefits ended on August 1, 2015 and 7 months after the appeal deadline. Petitioner's appeal is untimely.

CONCLUSIONS OF LAW

That the Division of Hearings and Appeals does not have authority to make a determination on the merits of this matter as the appeal is untimely.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 28th day of July, 2016

\s _____
David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 28, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability